JASPER COUNTY BUSINESS LICENSE ORDINANCE

Section 8-31. <u>License Required.</u>

Every person engaged or intending to engage in any calling, business, occupation or profession, in whole or in part, within unincorporated Jasper County, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Section 8-32. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meaning ascribed herein:

"Business" means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. In addition to the above-described activities constituting doing business in the county, an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or partial interest therein) within the county, excluding the municipalities therein. This applies to both short-term and long-term rentals.

"Charitable Organization" means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. section 501 (c) (3), (4), (6), (7), (8), (10) or (19).

"Charitable Purpose" means a benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization.

"Classification" means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the Council.

"County" means the County of Jasper, South Carolina.

"Gross Income" means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County, excepting therefrom income earned wholly outside of the unincorporated area of the County on which a license tax is paid by the business to some other municipality or a county and fully reported to the municipality or other county. Gross income for agents means gross commissions received or retained, unless otherwise specified. The term "gross receipts" means the value proceeding or accruing from the sale of tangible business personal property, including merchandise and commodities of any kind and character and all receipts, by the reason of any business engaged in, including interest, dividends, discounts, rentals of real estate or royalties, without deduction on the account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. Gross income for insurance companies means gross premiums written.

Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies.

"License Official" means the county employee, or other individuals, designated by the county administrator to perform the duties set forth in this article and administer this ordinance.

"Licensee" means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

"Person" means any individual, firm, partnership, LLP, LLC, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

Section 8-33. Purpose and Duration.

The business license levied by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege fee. Each yearly license shall be issued for the twelve-month period of July 1 to June 30. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 8-34. <u>License Tax.</u>

A. The required license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of May in each year, except for those businesses in Rate Class 8 for which a different due date is specified.

B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the license tax shall be computed on the combined gross income for the classification requiring the highest rate. A license tax based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. No refund shall be made for a business that is discontinued.

Section 8-35. Registration Required.

A. The owner, agent or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; *provided*, a new business shall be

required to have a business license prior to operation within the County. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued a State alcohol, beer or wine permit or license and will have actual control and management of the business.

- B. Application shall be on a form provided by the License Official which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the South Carolina Retail License Number (if applicable), the business name as reported on the South Carolina income tax return, and all information about the applicant and the Licensee and the business deemed appropriate to carry out the purpose of this ordinance by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.
- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments, personal property taxes on business property and other monies due and payable to the County have been paid.
- D. No business license shall be issued until the applicant first submits documents necessary to establish compliance with Jasper County Zoning Ordinance, Building Code, and other regulatory codes as adopted by Jasper County Council.

Section 8-36. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned wholly outside of the County on which a license tax is paid by the business to some other municipality or a county and fully reported to the County, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to State or Federal law. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the County, unless exempted by State or Federal law. The License Official shall determine the appropriate classification for each business in accordance with the latest issue of the North American Industry Classification System (NAICS) for the United States published by the Office of Management and Budget. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by State law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this ordinance.
- C. A Charitable Organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A Charitable Organization, or any for-profit affiliate of a Charitable Organization, that reports income from for-profit activities, or unrelated business income, for Federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

A Charitable Organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a Charitable Organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a Charitable Purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 8-37. False Application Unlawful.

It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license, or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

Section 8-38. <u>Display and Transfer.</u>

A. All persons shall display the license issued to them on the original form provided by the License Official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the County.

B. A change of address must be reported to the License Official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the License Official and compliance with zoning and building codes. Failure to obtain the approval of the License Official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 8-39. Administration of Article.

The License Official shall administer the provisions of this article, collect license taxes, issue licenses, make or initiate investigations and audits to insure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this ordinance, and perform such other duties as may be duly assigned. Nothing herein shall be deemed to prohibit the County from entering into contractual arrangements with outside entities for any or all of the administrative functions of the License Official, who, in such instances, will supervise the activities of the contracting entity(ies).

Section 8-40. <u>Inspection and Audits.</u>

A. For the purpose of enforcing the provisions of this ordinance, the License Official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections, examine and audit books and records, as well as requiring submission of certified records to show compliance with this ordinance. The License Official may make systematic inspections of all businesses within the County to insure proper licensure has been received and displayed. It shall be unlawful for any person to fail or refuse to make

available the necessary books and records during normal business hours with 48 hours' prior written notice. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license tax shall constitute a separate offense.

- B. The License Official shall have the authority to make inspections and conduct audits of businesses within the County to insure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the License Official shall not release the amount of license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, State or Federal law, or proper judicial order. Statistics compiled by classifications are public records.
- C. The license official, upon approval of the county administrator, may disclose gross income of licenses to the Internal Revenue Service, South Carolina Department of Revenue, Jasper County Tax Appraiser and other county and municipal business license offices for the purpose of assisting tax assessments, tax collections and enforcement of the business license. Such disclosures shall be for internal, confidential and official use by these governmental agencies and shall not be deemed public records.

Section 8-41. Assessments, Payment under Protest, Appeal.

- A. If a person fails to obtain a business license or to furnish the information required by this ordinance or the License Official, the License Official shall examine such records of the business or any other available records as may be appropriate, and conduct such investigations and statistical surveys as the License Official may deem appropriate to assess a license tax and penalties as provided herein.
- B. A notice of assessment shall be served by certified mail or personal service. An application for adjustment of the assessment may be made to the License Official within five (5) days after the notice is mailed or personally served or the assessment will become final. The License Official shall establish a uniform procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.
- C. A final assessment may be appealed to the Council only by payment in full of the assessment under protest within five (5) days and the filing of written notice of appeal within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to Council.

Section 8-42. <u>Delinquent License Taxes</u>, <u>Partial Payment</u>.

- A. For non-payment of all or any part of the correct license tax, the License Official shall levy and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license tax remains unpaid for sixty (60) days after its due date, the License Official shall report it to the County attorney for appropriate legal action.
- B. Partial payment may be accepted by the License Official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full

amount of the tax due, with penalties, has been paid. If any license tax shall remain unpaid for 60 days after its due date (August 1st for renewals), the license official shall issue an execution which shall constitute a lien upon the property of the licensee for the tax, penalties and cost of collection, and shall proceed to collect in the same manner as prescribed by law for the collection of other taxes. Upon identification of a delinquent account the director of business license or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based upon the revenue procedures as adopted

Section 8-43. Notices.

The License Official may, but shall not be required to, mail written notices that license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the County three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 8-44. Denial of License.

The License Official shall deny a license to an applicant when the License Official determines:

- A. The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidens; or
- C. Intentionally Deleted
- D. The applicant, Licensee or prior Licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the County or in another jurisdiction; or
- E. The applicant, Licensee or prior Licensee or the person in control of the business is delinquent in the payment to the County of any tax or fee; or
- F. The license for the business or for a similar business of the Licensee in the County or another jurisdiction has been denied, suspended or revoked in the previous license year.

A decision of the License Official shall be subject to appeal to Council as herein provided. Denial shall be written with reasons stated.

Section 8-45. Suspension or Revocation of License.

When the License Official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law; or
- B. A Licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance; or

- C. A Licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- D. Intentionally Deleted
- E. A Licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A Licensee is delinquent in the payment to the County of any tax or fee,

the License Official shall give written notice to the Licensee or the person in control of the business within the County by personal service or certified mail that the license is suspended pending a hearing before Council for the purpose of determining whether the license should be revoked.

The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Council meeting within thirty (30) days from the date of service of the notice, unless continued by agreement. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 8-46. Appeals to Council.

A. Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the License Official may appeal the decision to the Council by written request stating the reasons therefore, filed with the License Official within ten (10) days after service by mail or personal service of the notice of decision, final assessment, proposed revocation, suspension or denial.

B. An appeal or a hearing on proposed revocation shall be held by the Council within thirty (30) days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council shall govern the hearing. Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be the final decision of the County.

Section 8-47. Intentionally left blank. (Franchise fees)

Section 8-48. Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so

classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of the license ordinance, and include sharing information with other local governments which the licensee claims credit against gross income by virtue of doing business in that local government's jurisdiction.

Section 8-49. Violations.

Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein. See also Article I, Section 8-1, **Enforcement of chapter, remedies; conflict with other laws**.

Section 8-50. <u>Severability.</u>

A determination that any portion of this ordinance is unconstitutional, unlawful, invalid or unenforceable, shall not affect the remaining portions. Should any portion of any fee be invalid by virtue of any provision herein, such portion of the fee as is valid shall still be due. Should any portion of this article be declared unconstitutional, unlawful, invalid or unenforceable as applied, that portion which is lawful as applied, or would be lawful if applied otherwise, shall still be in force, and the tax still due.

Section 8-51. Classification and Rates.

A. The classifications of businesses included in each rate class are listed with United States North American Industry Classification System (NAICS) codes, by sector, sub-sector, group or industry. The Business License Class Schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a license tax. The business classification, pursuant to the most recent version of the Business License Class Schedule adopted by the council, most specifically identifying the subject business, shall be applied to the business. The License Official shall have the authority to make the determination of the business classification most specifically applicable to a subject business.

B. The license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current Business License Rate Schedule, designated as *Append*ix *A* to this ordinance, which may be amended from time to time by the Council. A copy of the Class Schedule and Rate Schedule shall be filed in the office of the municipal clerk.

APPENDIX A

RATE SCHEDULE

	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
RATE CLASS	BASE RATE	Rate per Thousand or fraction thereof
1	\$ 20.00	\$.55
2	\$ 25.00	\$.65
3	\$ 30.00	\$.75
4	\$ 35.00	\$.85
5	\$ 40.00	\$.95
6	\$ 45.00	\$ 1.05
7	\$ 50.00	\$ 1.15
8.1	\$ 50.00	\$.55
8.1A	\$100.00	\$ 1.50
8.2	Set by State Statute	
8.2A	Set by Consent or Franchise	
8.3	Set by State Statute	
8.4	\$ 50.00	\$.75
8.5	\$ 50.00	\$.75
8.6	\$ 50.00	\$.75
8.6A	\$ 50.00	\$.75
8.7	(See S.C. Code § 4-9-30)	
8.8A	\$12.50 + \$12.50 per machine (not based on gross income)	
8.8B	\$ 50.00	\$.75
8.8C	\$12.50 + \$12.50 per machine (not based on gross income)	
8.8D	\$ 50.00	\$.75
8.9A	\$ 50.00	\$.75
8.9B	\$ 50.00	\$.75
8.9C	\$200.00	\$2.00
8.9D	\$500.00	\$2.00
8.10	\$50.0.00 + \$5.00 per table	\$.75

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the County.

<u>DECLINING RATES – RESIDENT AND NON-RESIDENT</u>

Declining Rates apply in all Classes for gross income in excess of \$7,000,000, unless otherwise specifically provided for in this ordinance.

Gross Income in \$ Millions	Percent of Class Rate for each additional \$1,000
0 - 7	100%
7 - 10	50% for this increment
10 - 20	35% for this increment
20 - 50	15% for this increment
50 and above	10% for this increment

CLASS 8 RATES

Each NAICS Number designates a separate sub-classification. The businesses in this section are treated as separate and individual subclasses due to provisions of State law, regulatory requirements, service burdens, tax equalization considerations, etc., which are deemed to be sufficient to require individually determined rates. Non-resident rates do not apply except where indicated.

8.1	NAICS 230000 - Contractors, Construction, All Types [Non-resident rates apply]	
	Having permanent place of business within the County	
	Minimum on first \$2,000.	\$ 50.00 PLUS
	Each additional 1,000	\$ 0.55
8.1A	Not having permanent place of business within the County	
	Minimum on first \$2,000.	\$ 100.00 PLUS
	Each additional 1,000	\$ 1.50

A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

The total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

- **8.2** NAICS 482 Railroad Companies (See S.C. Code § 12-23-210)

	NAICS 22121 – Natural Gas Distribution(See S.C. Code § 4-9-30)
8.3	NAICS 5171, 5172 - Telephone Companies: (See S.C. Code § 4-9-30)
8.4A	NAICS 423930 - Junk or Scrap Dealers [Non-resident rates apply] Minimum on first \$2,000
8.4B	NAICS 522298 - Pawn Brokers - All Types Minimum on first \$2,000 \$50.00 PLUS Per \$1,000, or fraction, over \$2,000 \$0.75
8.5	NAICS 4411, 4412 - Automotive, Motor Vehicles, Boats, Farm Machinery or Retail (except auto supply stores - see 4413) Minimum on first \$2,000
	Gross receipts for this classification shall include value of trade-ins. Dealer transfers or internal repairs on resale items shall not be included in gross income. NAICS 454390 - Peddlers, Solicitors, Canvassers, Door-To-Door Sales Direct retail sales of merchandise. [Non-resident rates apply]
8.6	Regular activities [more than two sale periods of more than three days each per year] Minimum on first \$2,000
8.6A	Seasonal activities [not more than two sale periods of not more than three days each year, separate license required for each sale period] Minimum on first \$2,000
8.7	<u>NAICS 5241</u> - <u>Insurance Companies</u> : (See S.C. Code § 4-9-30)
	NAICS 713120 - Amusement Machines, coin operated (except gambling) -

	Music machines, juke boxes, kiddy rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) – [Type I and Type II]
8.8A	Operator of machine
	business license for operation of all machines (not on gross income). [§12-21-2746]
8.8B	<u>Distributor selling or leasing machines</u> (not licensed by the State as an operator pursuant to §12-21-2728) - [Nonresident rates apply.]
	Minimum on first \$2,000
	S 713290 - Amusement Machines, coin operated, non-payout ement machines of the non-payout type or in-line pin game licensed by SC Department of
	ue pursuant to S.C. Code §12-21-2720(A)(3) [Type III]
8.8C	Operator of machine \$12.50/machine PLUS \$12.50 per machine
	business license for operation of all machines (not on gross income). [§12-21-2720(B)]
8.8D -	. <u>Distributor selling or leasing machines</u> (not licensed by the State as an operator pursuant to \$12-21-2728) - [Nonresident rates apply.] -Minimum on first \$2,000 \$50.00 PLUS Per \$1,000, or fraction, over \$2,000 \$0.75
8.9A	NAICS 713290 - Bingo halls, parlors –
	Minimum on first \$2,000
8.9B	NAICS 711190 - Carnivals and Circuses -
	Minimum on first \$2,000
8.9C	NAICS 722410 - Drinking Places, bars, lounges, cabarets (Alcoholic beverages
	consumed on premises) Minimum on first \$2,000\$200.00 PLUS
	Per \$1,000, or fraction, over \$2,000\$2.00
	License must be issued in the name of the individual who has been issued a State alcohol, beer or wine permit or license and will have actual control and management of the business.
8.9D	NAICS 722 Adult Entertainment, 7115 Adult Exotic Dancers, other Sexually Oriented Businesses –
	Minimum on first \$2,000\$500.00 PLUS
	Per \$1,000, or fraction, over \$2,000

8.10	NAICS 713990 - Billiard or Pool Rooms, all types		
	Minimum on first \$2,000	\$50.00 PLUS	
	Per \$1,000, or fraction, over 2000	\$0.75	

Business License Class Schedule by NAICS Code Appendix B

This appendix will be updated periodically based on the latest available IRS statistics. The updated Business License Class Schedule may be accessed at http://www.masc.sc/SiteCollectionDocuments/Finance/BL-AppxB.pdf